

SIMTEK6895

IN THE UNITED STATES PATENT OFFICE

RECEIVED
CENTRAL FAX CENTER


JUN 23 2006

In re Application of

App. No.: 10/709243
Filed: April 23, 2004
Conf. No.: 3242
Title: ARMATURE OF ROTARY
ELECTRICAL APPARATUS
Examiner: Y. Comas
Art Unit: 2834
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence and all
marked attachments are being deposited with
the United States Patent Office via fax to
(571) 273-8300 on:

June 23, 2006



Ernest A. Beutler
Reg. No. 19901

PETITION TO WITHDRAW FINALITY

Dear Sir:

The Commissioner is most respectfully requested to exercise his supervisory authority and direct the Examiner to withdraw the finality of the rejection made on June 19, 2006 on the basis that the citation of the new Laurie reference was not a result of the amendment made to the claims in response to the first office action, but was required by the Examiner's failure to comply with the MPEP and specifically Section 904.03 thereof that provides "It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment."

Also it is submitted that the amendment made did not add to the claim the language quoted by the Examiner in his alleged justification for this new citation, but his admission made in response to applicant's argument that the basic reference did not disclose the feature claimed. The claim as originally presented required the "tooth engaging portions encircling said pole teeth".

Even if the claim was further limited that alleged but not newly presented language was such that the Examiner in making his search should have "reasonably anticipates might be incorporated into applicant's amendment." It is grossly unfair to permit the Examiner to in effect "lie in the weeds" and then prevent applicant from making an amendment as a matter of right to address this newly taken position of his.

App. No.: 10/709243
Filed: April 23, 2004
Conf. No.: 3242

Page 2 of 2

It is believed that no fee is required by this petition.

Respectfully submitted:



Ernest A. Beutler
Reg. No. 19901

Phone (949) 721-1182
Pacific Time